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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,444	12/04/2001	Hironori Yamada	01300048AA	9187
30743	7590	10/29/2004	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			NGUYEN, DAVID Q	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/000,444

Applicant(s)

YAMADA, HIRONORI

Examiner

David Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 08/31/04 have been fully considered but they are not persuasive.

In response to Applicant's Remarks on page 9, Applicants agree: "Toba is absolutely silent about a timer" and "the timer is not shown by the reference to Toba".

Examiner respectfully disagrees because Toba discloses a time. On column 5, lines 35-39 and col. 6, lines 28-32, Toba discloses that the control circuit 12 judge that the user is absent *when a predetermined period elapsed* since the beginning of the call signal without a response of the user. It is clear that Toba discloses a timer.

In response to Applicant's Remarks on page 10, Applicants agree: "Toba does not show periodically activating of a sounder or vibrator until a user cancels an absence reception call message on display".

Examiner respectfully disagrees because Toba clearly discloses activating of a sounder or vibrator until a user cancels an absence reception call message on display (see col. 5, line 67 to col. 6, line 16; col. 6, lines 28-32; col. 6, lines 39-43 and col. 5, lines 40-51).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claim 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Toba (US 6,438,392 B1).

Regarding claim 1, Toba discloses a cellular phone capable of displaying an in-absence incoming call message on a display if a user of said cellular phone does not answer an incoming call, said cellular phone comprising: a timer for starting counting, at the same time as the in-absence incoming call message is displayed, a preselected period of time set therein beforehand; and reporting means for alerting the user to the incoming call when said timer counts up the preselected period of time (column 4: lines 28-31, column 6: lines 26-31; col. 5, lines 40-51).

Regarding claim 2, Toba further discloses canceling means for canceling the in-absence incoming call message when the user answers the incoming call before said timer counts up the preselected period of time (figure 4: reference S51; col. 5, lines 23-27).

Regarding claim 7, Toba discloses a cellular phone capable of displaying an in-absence incoming call message on a display if a user of said cellular phone does not answer an incoming call, said cellular phone comprising: a time for starting counting, at the same time as the in-absence incoming call message is displayed, a preselected period of time set therein beforehand; reporting means for alerting the user to the incoming call when said timer counts up the preselected period of time; and repeating means for repeatedly alerting the user to the incoming call by repeatedly reporting said incoming call and repeatedly counting the preselected period of time (column 4: lines 28-31, column 6: lines 26-31, figure 4: references S10-S15; col. 5, lines 40-51).

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Regarding claims 8-9, Toba further discloses canceling means for canceling a report, or reception of a report of the in-absence incoming call when the user answers the incoming call before said time counts up the preselected period of time (figure 4: references S15 and S12; column 6: lines 26-311; col. 5, lines 40-51; col. 5, lines 23-27).

Regarding claims 3-6 and 10-13, Toba discloses reporting means comprising a vibrator (figure 3: reference 15), speaker (figure 3: reference 16), or light emitting diode (figure 3: reference 9).

Regarding claim 14, Toba further discloses reporting means for alerting repeatedly the user to the incoming call when said timer counts up the preselected period of time until the user of said cellular phone cancels said in-absence incoming call message on said display (figure 4: references S15 and S12; column 6: lines 26-311; col. 5, lines 40-51; col. 5, lines 23-27).

Regarding claim 15, Toba further discloses said repeating means is alerting the user to the incoming call by repeatedly reporting said incoming call and repeatedly counting the preselected period of time until the user of said cellular phone cancels said in-absence incoming call message on said display (figure 4: references S15 and S12; column 6: lines 26-311; col. 5, lines 40-51; col. 5, lines 23-27).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q Nguyen whose telephone number is 703-605-4254. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 703-308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David Nguyen

  
DAVID HUDSPETH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER